

**BOARD OF ZONING APPEALS
CITY OF MERRIAM, KANSAS
9001 W. 62nd ST.
COUNCIL CHAMBERS**

MINUTES

**October 18, 2017
7:00 pm**

The Board of Zoning Appeals meeting for the City of Merriam, Kansas, was called to order by Chairman Bill Bailey on Wednesday, October 18, 2017, at 7:00 p.m. in the Council Chambers with the Chairman inviting everyone present to participate in the Pledge of Allegiance to the Flag.

I.

ROLL CALL

Members Present: William Bailey, Chairman
Mitchell Fowler
Russ Harmon, Secretary
Joseph Kronawitter
Shawn McConnell
Cole Stephens, Vice Chairman

Members Absent: Terrie Stanker

Also Present: Bryan Dyer, Community Development Director;
Nancy Yoakum, Recording Secretary

II. APPROVAL OF MINUTES OF DECEMBER 21, 2016

Chairman Bill Bailey stated that the BZA board members had received a copy of the December 21, 2016 meeting minutes, and asked if there were any corrections or additions.

Hearing no comments, Chairman Bill Bailey entertained a motion.

SHAWN MCCONNELL MOVED THAT THE MINUTES OF THE BOARD OF ZONING APPEALS MEETING OF DECEMBER 21, 2016 BE APPROVED. MITCHELL FOWLER SECONDED THE MOTION. THE MOTION WAS UNANIMOUSLY APPROVED.

III. ITEMS OF BUSINESS

1. Application BZA17-000001 – Robert Belgum – 8120 W. 66th Terr.

Chairman Bill Bailey presented to the BZA board members a request for a variance from the Merriam Zoning Regulations.

Community Development Director Bryan Dyer stated that the subject property is located at 8120 W. 66th Terr., on the N.E. corner of 66th Terr. and Goodman Dr. and is zoned R-1 (Single Family Residential) District. The applicant is requesting a variance of 10 feet from the front yard setback requirement for the existing residence to allow for the expansion of the attached garage to the north of their residence.

Mr. Dyer stated the front yard setback in an R-1 District is 30 feet. Mr. Dyer stated the size of the lot is approximately 16,000 sq. ft. whereas a typical size lot in Merriam is 10,000 sq. ft. The residence on the subject property is located 20 feet from the Goodman Dr. right-of-way. Mr. Dyer stated the existing property was constructed in 1956 and at that time, the City of Merriam only established one (1) front yard setback for corner lots. Mr. Dyer stated that in the 1970's, the Merriam Code changed for homes situated on a corner, and the yards facing a public street are considered to be front yards; therefore, the residence violates the required front yard setback for Goodman Dr.

Mr. Dyer stated that this is an existing non-conforming structure. Mr. Dyer stated that per City of Merriam regulations an existing non-conforming structure cannot be substantially changed or expand unless the structure is brought into compliance with City of Merriam Zoning.

Mr. Dyer stated there is an existing accessory structure, which violates the side yard setback requirement of seven (7) feet from the property line. Mr. Dyer stated that one of the conditions of approval is that the accessory structure be removed.

Mr. Dyer reviewed the site plan and stated there is ample space for the applicant to extend the garage, and stated there will more than an adequate amount of space between the applicant and neighboring property to the north.

Mr. Dyer stated that the applicant is requesting to extend the existing garage that faces Goodman Dr. from 24 to 48 feet.

Mr. Dyer reviewed the elevations and stated that the exterior garage materials proposed will be similar to that of their residence.

Mr. Dyer reviewed the State Law and Section 50-77 (c) of the Merriam Code which specifies the authority of the Board of Zoning Appeals to grant variances to the zoning regulation and reviewed each finding regarding the applicant's request related to the criteria for consideration of approval.

(A) that the variance requested arises from such condition which is unique to the property in question and which is not ordinarily found in the same zone or district, and is not created by an action or actions of the property owner or the applicant;

Staff Comment

State law specifies that the variance request rises from a “unique condition” that is associated with the subject property which is not ordinarily found in the same zone or district. The subject property is 13,000 square feet which is slightly greater in area than a typical Merriam single-family residential lot. The subject property is located on a corner lot, which present unique challenges in allowing development to occur. Additionally, the residence was constructed in 1956, prior to the city’s adoption of the current zoning setbacks.

Staff finds that the variance arises from a condition that is unique to the property that is not ordinarily found in the same zone or district and is not created by an action of actions of the property owner or applicant.

(B) That the granting of the permit for the variance will not adversely affect the rights of adjacent property owners or residents;

Staff Comment

If granted, the variance will not adversely affect the rights of adjacent property owners or residents. The residence was constructed in 1956 with the current setback of 20 feet and the proposed addition will not encroach further into the existing front yard setback along Goodman Street.

Staff finds that the granting of the permit for the variance will not adversely affect the rights of the adjacent property owners or residents.

(C) That the strict application of the provisions of the zoning regulations of which variance is requested will constitute unnecessary hardship upon the property owner represented in the application;

Staff Comment

The strict application of the zoning regulations would prevent the property owner from adding a garage addition to the existing structure.

Staff finds that the strict application of the provisions of the zoning regulations from which variance is requested will constitute unnecessary hardship upon the property owner.

(D) That the variance desired will not adversely affect the public health, safety morals, order, convenience, prosperity, or general welfare; and

Staff Comment

Granting the variance will allow the construction of a 568 square foot garage addition to the existing 529 square foot garage structure for a total garage area of 1,081 square feet, which is in compliance with Merriam Code. The total garage square footage will not exceed the 1,468 livable square footage of the single-family residence. The existing setback will be maintained. A non-compliant detached accessory structure will be removed.

Staff finds that granting proposed variance will have not have an adverse effect on the public health, safety, morals, order, convenience, prosperity, or general welfare.

(E) That granting the variance desired will not be opposed to the general spirit and intent of the zoning regulation;

Staff Comment

Merriam Code as it pertains to bulk regulations in a residentially zoned area were written to create a uniform set of standards for development and provide for adequate separation between structures. The subject property and surrounding properties are larger than the standard 10,000 square foot R-1 (Single-Family Residential) District lot. Because of these large lots, adequate separation of structures will be maintained even if the variance is granted.

The proposed garage expansion will maintain the existing 20 foot setback that has been in existence since the residence was constructed in 1956. The proposed addition will be constructed of similar materials to closely match the existing residence.

Staff finds that granting the variance desired will not be opposed to the general spirit and intent of the zoning regulations.

Mr. Dyer stated that Community Development staff finds that the application meets the requirements set forth in K.S.A. 12-759 and Chapter 50, Article IV of the Merriam Municipal Code.

Mr. Dyer reviewed the conditions of approval should the Board of Zoning Appeals approve the application.

Mr. Dyer stated he would answer any questions of the BZA board members and stated the applicant was present as well.

Chairman Bill Bailey inquired if there will be an extension for the driveway approach.

Mr. Dyer stated there would be a driveway extension and that the proposed approach and expansion of their driveway meets the zoning regulations.

Chairman Bill Bailey inquired if there were any additional questions for Mr. Dyer. Hearing none, he asked if the applicant would like to come forward.

Jeff Belgum, 8120 W. 66th Terr., Merriam, KS introduced himself to the Board of Zoning Appeals.

Board member Shawn McConnell inquired what the purpose of the expansion was.

Mr. Belgum stated so that he could have everything located in one building.

Board member Joseph Kronawitter inquired if there has been any feedback from neighbors.

Mr. Dyer stated there has been no comments from the public on the project.

Chairman Bill Bailey asked if there were any more questions, hearing none, he entertained a discussion or a motion.

RUSS HARMOM MOVED THAT THE BOARD OF ZONING APPEALS APPROVE APPLICATION BZA17-000001 FOR PROPERTY LOCATED AT 8120 W. 66TH TERRACE WITH THE CONDITIONS STATED IN THE STAFF REPORT. MITCHELL

FOWLER SECONDED THE MOTION. THE MOTION WAS UNANIMOUSLY APPROVED.

IV. BUSINESS FROM THE FLOOR

Community Development Director Bryan stated there needed to be a 2017 vote for the Election of Officers.

JOSEPH KRONAWITTER NOMINATED BILL BAILEY FOR CHAIRMAN; COLE STEPHENS FOR VICE-CHAIRMAN AND RUSS HARMON AS SECRETARY. SHAWN MCCONNELL SECONDED THE MOTION. THE OFFICERS WERE UNANIMOUSLY APPROVED.

V. UNFINISHED BUSINESS

None

VI. ADJOURNMENT

There being no further business, **MITCHELL FOWLER MOVED FOR ADJOURNMENT.**
The meeting was adjourned at 7:22 p.m.

Respectfully submitted,



Bryan P. Dyer, AICP
Community Development Director

Approved: February 21, 2018